

**R590. Insurance, Administration.**

**R590-162. Actuarial Opinion and Memorandum Rule.** *(Effective 12-5-2012)*

**R590-162-1. Purpose.**

The purpose of this rule is to prescribe:

- A. Requirements for statements of actuarial opinion which are to be submitted in accordance with Section 31A-17-503, and for memoranda in support thereof;
- B. Guidance as to the meaning of "adequacy of reserves;" and
- C. Rules applicable to the appointment of an appointed actuary.

**R590-162-2. Authority.**

This rule is issued pursuant to the authority vested in the Commissioner of Insurance of the State of Utah under Title 31A, Chapter 17, Part 5.

**R590-162-3. Scope.**

This rule shall apply to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or disability insurance business in this State.

This rule shall be applied in a manner that allows the appointed actuary to utilize professional judgment in performing the asset adequacy analysis and developing the actuarial opinion and supporting memoranda, consistent with applicable actuarial standards of practice. However, the commissioner shall have the authority to specify the methods of actuarial analysis and actuarial assumptions when, in the commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

This rule shall be applicable to all annual statements filed with the office of the commissioner after the effective date of this rule. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 6 of this rule, and a memorandum in support thereof in accordance with Section 7 of this rule, shall be required each year.

**R590-162-4. Definitions.**

A. "Actuarial Opinion" means the opinion of an Appointed Actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with Section 6 of this rule and with applicable Actuarial Standards of Practice.

B. "Actuarial Standards Board" is the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

C. "Annual Statement" means that statement required by Section 31A-4-113 to be filed by the company with the office of the commissioner annually.

D. "Appointed Actuary" means any individual who is appointed or retained in accordance with the requirements set forth in Subsection 5C of this rule to provide the actuarial opinion and supporting memorandum as required by 31A-17-503.

E. "Asset Adequacy Analysis" means an analysis that meets the standards and other requirements referred to in Subsection 5D of this rule. It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.

F. "Commissioner" means the Insurance Commissioner of this State.

G. "Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this rule.

H. "Qualified Actuary" means any individual who meets the requirements set forth in Subsection 5B of this rule.

**R590-162-5. General Requirements.**

**A. Submission of Statement of Actuarial Opinion**

(1) There is to be included on or attached to Page 1 of the annual statement for each year beginning with the year in which this rule becomes effective the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Section 6 of this rule.

(2) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the commissioner may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(3) Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

**B. Qualified Actuary**

A "qualified actuary" is an individual who:

(1) Is a member in good standing of the American Academy of Actuaries;

(2) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

(3) Is familiar with the valuation requirements applicable to life and health insurance companies;

(4) Has not been found by the commissioner, or if so found has subsequently been reinstated as a qualified actuary, following appropriate notice and hearing to have:

(a) Violated any provision of, or any obligation imposed by, the Utah Code or other law in the course of his or her dealings as a qualified actuary;

(b) Been found guilty of fraudulent or dishonest practices;

(c) Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

(d) Submitted to the commissioner during the past five years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board; or

(e) Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under Subsection (4) above.

**C. Appointed Actuary**

An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this rule, either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary. The company shall give the commissioner timely written notice of the name, title, and, in the case of a consulting actuary, the name of the firm and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in Subsection 5B of this rule. Once notice is furnished, no

further notice is required with respect to this person, provided that the company shall give the commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in Subsection 5B. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

**D. Standards for Asset Adequacy Analysis**

The asset adequacy analysis required by this rule:

(1) shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with this rule; and

(2) shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

**E. Liabilities to be Covered**

(1) Under authority of Section 31A-17-503, the statement of actuarial opinion shall apply to all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued.

(2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in Title 31A, Chapter 17, Part 5 the company shall establish such additional reserve.

(3) Additional reserves established under Subsection (2) above and deemed not necessary in subsequent years may be released. Any amounts released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

**R590-162-6. Statement of Actuarial Opinion Based On an Asset Adequacy Analysis.**

**A. General Description**

(1) The statement of actuarial opinion submitted in accordance with this section shall consist of:

(a) a paragraph identifying the appointed actuary and his or her qualifications as specified in Subsection 6B(1) of this rule;

(b) a scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, as specified in Subsection 6B(2) of this rule, and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(c) a reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios, as specified in Subsection 6B(3) of this rule, supported by a statement of each such expert in the form prescribed by Subsection 6E of this rule; and

(d) a n opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities, as specified in Subsection 6B(6) of this rule.

(2) One or more additional paragraphs will be needed in individual company cases as follows:

- (a) if the appointed actuary considers it necessary to state a qualification of the opinion;
- (b) if the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;
- (c) if the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis;
- (d) if the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;
- (e) if the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or
- (f) if the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

#### B. Recommended Language

The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

(1) The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, (name), am (title) of (insurance company name) and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the commissioner dated (insert date). I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should contain a sentence such as:

"I, (name), a member of the American Academy of Actuaries, am associated with the firm of (name of consulting firm). I have been appointed by, or by the authority of, the Board of Directors of (name of company) to render this opinion as stated in the letter to the commissioner dated (insert date). I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The scope paragraph should include a statement such as the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20( ). Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

(3) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

"I have relied on (name), (title) for (e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios or certain critical aspects of the analysis performed in conjunction with forming my opinion), as certified in the attached statement I have reviewed the information relied upon for reasonableness."

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts of the form prescribed by Subsection 6E of this rule.

(4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to (exhibits and schedules listed as applicable) of the company's current annual statement."

(5) If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company or a third party, the reliance paragraph should include a statement such as:

"In forming my opinion on (specify types of reserves) I have relied upon data prepared by (name and title of company officer certifying in-force records or other data) as certified in the attached statement. I evaluated that data for reasonableness and consistency. I also reconciled that data to (exhibits and schedules to be listed as applicable) of the company's current annual statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

Such a statement of reliance must be accompanied by a statement by each person relied upon of the form prescribed by Subsection 6E of this rule.

(6) The opinion paragraph should include the following:

(a) "In my opinion the reserves and related actuarial values concerning the statement items identified above:

(i) are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(ii) are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(iii) meet the requirements of the Insurance Law and rule of the state of (state of domicile) and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(iv) are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);

(v) include provision for all actuarial reserves and related statement items which ought to be established;"

(b) "The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company;"

(c) "The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion;" and

(d) "This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion;"

or

“The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion:” (Describe the change or changes.)

“The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.”

.....  
“Signature of Appointed Actuary

.....  
Address of Appointed Actuary

.....  
Telephone Number of Appointed Actuary

.....  
Date"

#### C. Assumptions for New Issues

The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Section 6.

#### D. Adverse Opinions

If the appointed actuary is unable to form an opinion, then the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

#### E. Reliance on Data Furnished by Other Persons

If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to the reliance.

In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

#### F. Alternate Option

(1) As an alternative to the requirements of Subsection B(6)(a)(iii) of this rule, the appointed actuary may state that the reserves and related actuarial values "meet the requirements of the Insurance Law and rule of the State of (state of domicile) and I have verified that the company's

request to file an opinion based on the laws of the state of domicile has been approved by the commissioner and that any conditions required by the commissioner for approval of that request have been met."

(2) To use this alternative, the company shall file a request to do so, along with the justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the commissioner has not denied the request by that date.

(3) Notwithstanding the above, the commissioner may reject an opinion based on the laws of the state of domicile and require an opinion based on the laws of this State. If a company is unable to provide the opinion within sixty days of the request or such other period of time determined by the commissioner after consultation with the company, the commissioner may contract an independent actuary at the company's expense to prepare and file the opinion.

#### **R590-162-7. Description of Actuarial Memorandum Including an Asset Adequacy Analysis.**

##### **A. General**

(1) In accordance with Section 31A-17-503, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the opinion regarding the reserves. The memorandum shall be made available for examination by the commissioner upon request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the commissioner.

(2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Subsection 5B of this rule, with respect to the areas covered in such memoranda, and so state in their memoranda.

(3) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this rule, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to the statute governing this rule. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this rule for any one of the current year or the preceding three years.

(5)(a) In accordance with Section 31A-17-503, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the content of which are specified in Subsection C.

(b) Every company domiciled in this state shall submit the regulatory asset adequacy issues summary no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required.

(c) Every foreign company is required to make the regulatory asset adequacy issues summary available to the commissioner upon request.

(d) The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

B. Details of the Memorandum Section Documenting Asset Adequacy Analysis.

When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Subsection 5D of this rule and any additional standards under this rule. It shall specify:

(1) for reserves:

(a) product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

(b) source of liability in force;

(c) reserve method and basis;

(d) investment reserves;

(e) reinsurance arrangements;

(f) identification of any explicit or implied guarantees made the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and

(g) documentation of assumptions to test reserves for the following:

(i) lapse rates (both base and excess);

(ii) interest crediting strategy;

(iii) mortality;

(iv) policyholder dividend strategy;

(v) competitor or market interest rate;

(vi) annuitization rates;

(vii) commissions and expenses; and

(viii) morbidity;

(2) for assets:

(a) portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

(b) investment and disinvestment assumptions;

(c) source of asset data;

(d) asset valuation bases; and

(e) documentation of assumptions made for:

(i) default costs;

(ii) bond call function;

(iii) mortgage prepayment function;

(iv) determining market value for assets sold due to disinvestment strategy; and

(v) determining yield on assets acquired through the investment strategy;

(3) for the analysis basis:

(a) methodology;

(b) rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;

(c) rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);



(d) criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and

(e) effect of federal income taxes, reinsurance and other relevant factors;

(4) summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

(5) summary of Results; and

(6) conclusions.

C. Details of the Regulatory Asset Adequacy Summary

(1) The regulatory asset adequacy issues summary shall include:

(a) descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force;

(b) the extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

(c) the amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

(d) comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserve during one or more interim periods;

(e) the methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each scenario tested; and

(f) whether the actuary has been satisfied that all options, whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(2) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

D. Documentation

The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

**R590-162-8. Exemptions.**

A. Unless ordered by the commissioner, a company that is under supervision, rehabilitation, or liquidation is exempt from the requirements of this rule.

B.(1) At the discretion of the commissioner, a company domiciled in this State and doing business only in this State may submit an opinion without the statement required under R590-162-6(B)(6)(b).

(2) If the commissioner grants an exemption under Subsection B(1), the company shall be exempt from preparing and submitting the RAAIS document required under R590-162-7(A)(5).

C.(1) A company domiciled in this State, and otherwise subject to the requirements of this rule, may apply to the commissioner for an exemption from:

(a) the requirement to submit an actuarial opinion required under R590-162-5(A)(1);

(b) the requirement to include within its actuarial opinion the statement required under R590-162-6(B)(6)(b); or

(c) the requirement to prepare and submit the RAAIS document required under R590-162-7(A)(5).

(2) A company seeking an exemption under Subsection C(1) shall:

(a) submit a written request for an exemption no later than November 1 of the year for which the exemption is sought; and

(b) provide a written explanation and supporting documents, if any, explaining how complying with the requirement for which an exemption is sought would not enhance the department's understanding of the financial position of the company and, therefore, be an unnecessary burden on the company.

**R590-162-9. Severability.**

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

**KEY: insurance**

**Date of Enactment or Last Substantive Amendment: 2012**

**Notice of Continuation: October 30, 2008**

**Authorizing, Implemented or Interpreted Law: 31A-17-503**